

**126 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-38689-2022

Date of Decision: August 29, 2022

Himanshu Dutt

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present:- Mr. Sidhant Vermani, Advocate for the petitioner.

AMAN CHAUDHARY, J.(Oral)

Present petition has been filed under Section 482 of the Code of Criminal Procedure seeking quashing of FIR No.116, dated 28.04.2022, under Section 174-A of IPC, registered at Police Station Cantonment Amritsar along with all the consequential proceedings arising therefrom.

Learned counsel for the petitioner submits that the proceedings under Section 138 of the Negotiable Instruments Act, 1881 were initiated against the petitioner by filing a complaint instituted by complainant Rajat Goel, which were initially taken up on 14.12.2018 and vide order dated 22.01.2019, the petitioner was summoned to face trial.

Learned counsel for the petitioner further submits that the case was fixed for appearance of the petitioner on 17.05.2019, on that date, he failed to appear and straightway non-bailable warrants were issued against him for 04.09.2019.

Learned counsel for the petitioner relies upon a Zimni order dated 04.09.2019 passed by the trial court, wherein it has been recorded that learned counsel for the complainant stated at bar that the accused

was in knowledge of the pendency of present proceedings and was deliberately not attending the court proceedings. The trial court concluded that the accused could not be served through non-bailable warrants, therefore, he was ordered to be summoned through proclamation warrants under Section 82 Cr.P.C. for 07.11.2019 on filing requisite process fee within three days from the passing of the order.

Thereafter, in the zimni order dated 29.10.2021, it was recorded that proclamation warrants were not issued for want of charges to be deposited by the complainant. Accordingly, it was ordered that proclamation must be issued within 15 days from the date of passing of that order. After the completion of the process, the petitioner was declared proclaimed person vide order dated 13.01.2022. In furtherance thereof he submits that the FIR was registered on 28.04.2022 under Section 174-A of the IPC. He further submits that the petitioner has been granted interim bail in the said FIR vide order dated 16.05.2022 passed by learned Sessions Judge, Amritsar.

Learned counsel for the petitioner draws the attention of this Court to Annexure P-6, being order dated 11.05.2022, passed by the learned Judicial Magistrate 1st Class, Amritsar, recording a separate statement having been made by the complainant, according to which, he had received full and final payment from the accused-petitioner and as such no longer wished to pursue the present complaint and sought permission to withdraw the same. On the basis of the said statement, the case was adjourned to 14.05.2022 for consideration before the Lok Adalat consideration on the statement of the withdrawal.

Accordingly, learned counsel for the petitioner submits that

vide order dated 14.05.2022, the complainant was granted permission to withdraw his complainant filed against the present petitioner and notice of accusation was yet to be served upon the accused, he stood discharged.

Learned counsel for the petitioner places reliance upon the following judgments of various co-ordinate Benches of this Court to contend that in the similar set of facts and circumstances wherein the complaint filed under Section 138 of the Negotiable Instruments Act, 1881, itself stands withdrawn, the proceedings initiated under Section 174-A IPC were quashed being an abuse of process of law:-

1. ***“Murli Jha vs State of Haryana”, 2021(3) R.C.R.(Criminal)563.***
2. ***“Microqual Techno Limited and others vs State of Haryana”, 2015(3) R.C.R.(Criminal) 790.***
3. ***“Ram Kumar Rana vs State of Haryana and another”, 2022(1) R.C.R. (Criminal) 294.***
4. ***“Ashok Madan vs State of Haryana and another”, 2020(4) R.C.R. (Criminal) 87.***

Notice of motion.

At the asking of the Court, Mr. Manipal Atwal, DAG, Punjab, accepts notice on behalf of the respondent-State and affirms the factum of compromise of the matter on the instructions from ASI Prem Singh, who is present in the Court today.

A co-ordinate Bench in ***Murli Jha***'s case (*supra*) held as under:-

“8. I have considered the rival submissions of the parties. The FIR is an outcome of the order declaring the petitioner as a proclaimed person in proceedings initiated under section 138 of NI Act which stands settled, the complaint has

*been withdrawn and the proceedings against the accused-petitioner were dropped. In such circumstances, the continuation of prosecution under Section 174-A IPC in pursuance to the orders passed by the trial Court cannot be permitted to continue. Reference in this connectin may be made to the judgments of this Court in **Microqual Techno R.C.R. (Criminal) 790; Rajneesh Khanna v. State of Haryana and another, 2017 (3) L.A.R. 555 and CRM-M-32612 of 2020, Surender Singh v. State of Haryana and another decided on 12.01.2021.** ”*

In view of the aforesaid facts and circumstances of the case that the complaint filed under Section 138 of the Negotiable Instruments Act, 1881, itself having been withdrawn, based on statement of the complainant that he had received full and final payment from the accused and in view of the judgment in case of **Murli Jha's** case (*supra*), the FIR No.116, dated 28.04.2022, under Section 174-A of IPC, registered at Police Station Cantonement Amritsar along with all the consequential proceedings arising therefrom, is quashed, subject to payment of costs of Rs.10,000/- to be deposited with the Poor Patients' Welfare Fund at PGIMER, Chandigarh.

Disposed of.

August 29, 2022
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(AMAN CHAUDHARY)
JUDGE

Whether reasoned/speaking: Yes/No
Whether reportable: Yes/No